## REMARKS

Claims 1-41 were examined. All claims were rejected. In response to the above-identified Office Action, Applicants cancel claims 1-41 and add new claims 42-54 without adding new matter. Reconsideration of the rejected claims in light of the aforementioned amendments and the following remarks is requested.

## I. Provisional Double Patenting Rejections

The Examiner provisionally rejected claims 1, 2, 15, 16, 25 and 26 as not patentably distinct from claims of co-pending application number 10/112,920. To the extent that material recited in the present claims is also not patentably distinct from the claims of a co-pending application, Applicants respectfully request the Examiner to hold all provisional double-patenting rejections in abeyance pending allowance of claims in one of the cases. If necessary, an appropriate response will be made when claims are allowed.

## II. Claims Rejected Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-3, 13-17, 23-27 and 33-35 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,633,976 issued to Stevens ("*Stevens*") in view of a PowerPoint presentation by Stevens ("*ReStevens*") and U.S. Patent No. 6,708,271 issued to Sasaki *et al.* ("*Sasaki*"). The newly-presented claims are believed to identify the material Applicants consider to be their invention more clearly than the canceled claims. The relationship of the new claims to the references of record will be discussed below.

Claim 42 and its dependent claims 43-49 recite a method comprising several operations, all of which are to occur before a final operation of initializing a system memory. This is the essence of the "Pre-Memory Execution Environment" in this Application's title. As described in the Specification at p. 7, line 17 through p. 8, line 9, a computer system performs various self-test and

initialization operations when it starts up, *before* the main memory is initialized and made available for use. The references of record support this sequence: *Stevens*, for example, states that "a minimal amount of BIOS initialization code is stored in a first portion of the critical nonvolatile storage device. The minimal initialization code is operative to initialize the CPU and the system memory." Of course, *Stevens*'s "minimal initialization code" is exactly where Applicants' invention operates, while *Stevens*'s innovations do not come into play until *after* the system memory has been initialized. Thus, the short explanation for why *Stevens* would fail to support a rejection of new claims 42-49 is that the reference describes a different phase of computer system startup – the "post-memory" phase, when readable and writeable system memory is available.

*Stevens* and *ReStevens* both relate to storing BIOS drivers and modules on secondary storage (*e.g.* a protected area of a hard disk) and loading the required drivers and modules into system memory when needed. If system memory has not yet been initialized, then clearly the loading operations cannot proceed.

The third reference, *Sasaki*, describes operations of software even further removed from the system initialization process. *Sasaki*'s description of Figure 1 mentions an interactive system with CPU, ROM and RAM, but those components and the functionality they provide are so basic to *Sasaki*'s methods that they are not even depicted in the figure. Even assuming (solely for the sake of argument) that the references could properly be combined, none of them describe system operations before a system memory has been initialized.

For at least the foregoing reasons, Applicants respectfully submit that new claims 42-49 are allowable over the references of record.

New claim 50 and its dependent claims 51-53 recite a computer-readable medium containing instructions to cause a programmable processor to perform various operations, where the final operation is to initialize a volatile system memory. Thus, like new claims 42-49 (discussed above), claims 50-53 describe software to execute in a pre-memory execution environment. As discussed

above, the references of record describe software operating later, in a *post*-memory execution environment where volatile memory (*e.g.* RAM) is available. This fundamental difference is believed to be expressed clearly in the claims by the limitation, "initializing a volatile system memory after dispatching the plurality of firmware modules." Applicants respectfully request that claims 50-53 be allowed.

New claim 54 and its dependent claims 55-57 recite a system comprising several elements, including a volatile memory that can store data after the volatile memory is initialized and a non-volatile memory containing a Basic Input-Output System ("BIOS") including a BIOS core and a plurality of firmware modules, wherein (among other things) two of the firmware modules are to be dispatched before the volatile memory is initialized. Again, these limitations localize the claimed material to a pre-memory execution environment, while the references of record apply to a *post*-memory execution environment. Without wishing to belabor the point, Applicants respectfully request that these claims be allowed as well.

## CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 42-57, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

Respectfully submitted,
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Dated: NOV 14, 2006

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